UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12,207.

Cecil B. Sanner and Mary W. Sanner,
Appellants,

versus

The Trustees of the Sheppard and Enoch Pratt Hospital,
Appellee.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND, AT BALTIMORE. EDWARD S. NORTHROP, JUDGE.

(Argued June 20, 1968. Decided July 1, 1968.)

Before BOREMAN, BRYAN and CRAVEN, Circuit Judges.

D. Robert Cervera (Joseph I. Huesman on brief) for Appellants, and Norman P. Ramsey (James D. Peacock and Cleaveland D. Miller; and Semmes, Bowen & Semmes on brief) for Appellee.

PER CURIAM:

Except for an important statutory relaxation[1] in 1966, Maryland judicially adheres to the so called doctrine of charitable immunity. Ordinarily such a matter is one of state law. *Erie R.R.* v. *Tompkins,* 304 U.S. 64 (1938). We have carefully considered plaintiff's interesting contention that the state of Maryland may not constitutionally cling to this judge-made, and increasingly questioned, doctrine. We reject the contention and affirm the granting of summary judgment in favor of the charitable institution.

Affirmed.

[1] Maryland Code Annotated Art. 43 § 556A (Supp. 1966).

JUDGMENT

[By Telegram]

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CT R 133 COLLECT RIC MOND VIR 1 1239P EDT
D ROBERT CERVARA, ESQ COLLECT 1.42
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SANNER VERSUS SHEPPARD, PRATT AFFIRMED. PHOTO-COPY OPINION BY MAIL TODAY. PRINTED COPY LATER

SAMUEL W. PHILLIPS CLERK
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